✓ Preserve

App. F. IX-4

Previous References

1933.
(Mazhai)

File No. S6-33

Serial Nos. 1-2

Later References

1933-33-3-4

General and Revenue Secretariat.

Serial Nos. 2 –

Part B for August 33.

SUBJECT.

Praying for permission to file a Civil Suit against the respondents viz Association by Mahamadia Anjumane ~~Islamia~~ Sabha Devra Dayarat at Malavalli

Messrs Yakub Sab & Dawood Sab.

Kurugoval Malavalli Hk

No 242 - of 23 & 33

for forms that no appeal lies to Govt against Dy Comrs order in the case.

Serial No.

1 Petition of 4.8.33 filed by Mr. H. Krishnappa. Advocate on behalf of his clients Yakub Sab and Dawood Sab. Kharagavalu Malvalli Taluk appealing against the order of the Deputy Commissioner Mysore District in Mysore Miscellaneous No 554 of 32-33 refusing to grant permission to them to file a civil suit against the respondents in respect of the Association referred to therein.

Notes and orders on the P.U.D:—

(1) I don't think an appeal lies to Govt in cases of this kind. Lawyers will have to be consulted

Sd/- B.H. 8/878

H See

(2) Yes

Sd/- A.N.R. 8/8.

2. I see both the Counsel's. [illegible]

Eo see

9/8

Under sec 92 C.P. Code, any scheme Suit in respect of a public trust of a charitable or religious nature, has to be filed with the Consent in writing of the Deputy Commissioner. The D.C in giving such consent has to ex-

NOTE—Contn. Sheet

Ruz Mis 6 of 38-

16

File No. of 193 . General and R Secretariat

this judgment in the matter and see not only whether the persons giving are persons who have an interest in the trust but also whether the trust is a public trust of the character defined in the section and whether there are prima facie grounds for thinking that there has been a breach of trust (24 Cal 418). In giving or withholding his consent, the D.C. is not acting as a Court and his orders therefore are not revisable by the High Court. His actions are those of an executive nature and Govt as chief controlling executive authority may direct the D.C to give his consent in a case in which he has refused such consent on very improper grounds. The aggrieved party has however no right of appeal ~~of~~ to Govt against the orders of the D.C.

Asst Secy Mun }
with Compt }

DMP
11/8/33

If approved the petr will be informed in reply to his petn that no appeal lies to Govt against the order of the D.C. in his case.

J
14/8/33

58
Law

JC Secy)

6) Add
14/8/33

20 M-r)

7) Seems) on the merits also there to be no case for interference under

J
14/8

14 AUG 1933
No. 2

Mlg Mis 6 of 33-34

Serial No.

SECTION
17 AUG. 1933
V SECTT.

Ord — nil

Gen 15/8

Mlg 17/8

2 Endorsement No 2428 of 23-8-33 Messrs Yakub Sahib & Dawood Sahib of Kirigaval Malvalli Taluk to the effect that no appeal lies to Government against the order of the Deputy Commissioner in the case —

No 2438 of 23-8-33 to Mr. M. Krishnappa Advocate for the petitioners forwarding copy of the above endorsement

20/8

No 2446 of 23/8/33 to the Mlg Revenue Commissioner forwarding for information copy of the above endorsement —

NOTE—Comm. Sheet.

WD 70—GBPM—60,000—13-8-31.

File No. of 193 General and Revenue Secretariat

4

BEFORE THE GOVERNMENT OF HIS HIGHNESS

THE MAHARAJA OF MYSORE.

*****:0:*****

Appeal against the order of the Deputy Commissioner, Mysore District, in Muzrai Miscellaneous Application No. 554 of 1932 refusing to grant permission to the appellants under Section 92 of the Civil Procedure Code, to file a Civil Suit against the respondents in respect of an Association by name " Anjumane Mahadevia Dayarath Ul Islam " at Kiragaval, Malavalli Taluk, Mysore District.

Appellants:-

(1) Yakub Sab, (2) Davood Sab, both residing at Kiragaval, Malavalli Taluk.

Vs.

Respondents:-

(1) K. Ibrahim Sab, Land-holder, President, Anjumane Mahamadevia Dayarath Ul Islam, Kiragaval, Malavalli Taluk, Mysore District,

(2) Sha Ahmed Khan, Agriculturist, Vice-President, Anjumane Mahadevia Dayarath Ul Islam, Kiragaval [illegible], Malavalli Taluk, Mysore Dist.

(3) Mirasahib, Agriculturist, Secretary of the Anjumane Mahadevia Dayarath Ul Islam, Kiragaval [illegible], Malavalli Taluk, Mysore Dist.,

(4) Gajimiya Sahib, Agriculturist, Joint Secretary of the Anjumane Mahadevia Dayarath Ul Islam, Kiragaval [illegible], Malavalli Taluk, Mysore District,

(5) Alli Sahib, Agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(6) Budan Khan Sahib, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(7) Davood Khan Sahib, Agriculturist, son of Birambai Budan Sahib, Kiragaval, Malavalli Taluk,

(8) Syed Yusuff Sahib, Agriculturist, Kiragaval, Malavalli Taluk,

(9) Syed Yasam Sahib, Agriculturist, Treasurer, Anjumane Mahadevia Dayarath Ul Islam, Kiragaval, Malavalli Taluk, Mysore District,

(10) Syed Syed Sultan Sahib, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(11) Syed Yusuff Sahib, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(12) Syed Marakap Sahib, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(13) Syed Mustafa Sahib, agriculturist, Kiragaval Malavalli Taluk, Mysore District,

(14) Syed Wajid Sahib, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(15) Syed Mahomed Khan Saheb, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(16) Gulam Husain Sahib, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(17) Hakim Budan Sahib, Hakim Unani, Kiragaval, Malavalli Taluk, Mysore District,

(18) Budan Sahib, agriculturist, son of K. Ibrahim Sahib, Kiragaval, Malavalli Taluk,

(19) Syed Mahomed Sahib, agricultuirst, Kiragaval, Malavalli Taluk, Mysore District,

(20) Budan Sahib, Merchant, son of Biram Sahib, Kiragaval, Malavalli Taluk, Mysore District,

(21) Syed Jaffer Sahib, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(22) Biram Khan Sahib, Merchant, Kiragaval, Malavalli Taluk, Mysore District,

(23) Razaak Sahib, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(24) Husain Khan Sahib, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(25) MiraSahib Miya Sahib, agriculturist, Kiragaval, Malavalli Taluk, Mysore District,

(26) Syed Abdul Raghad Sahib, Merchant, Auditor, Dayare Mohalla, Channapatna, Bangalore District.

The appellants above-named beg to prefer

prefer this appeal against the order of the Deputy Commissioner of Mysore District dated the 25th May 1933, in Muzrai Miscellaneous application No. 554 of 1932 refusing to give permission to file a Civil Suit against the respondents under Section 92 of the Civil Procedure Code, for the following among other reasons:-

(1) The Deputy Commissioner failed to see that there were prima facie grounds for granting permission to sue.

(2) The learned Deputy Commissioner while holding that there is not the slightest doubt that there are two factious among Mahomedans at Kiragaval, ought to have granted permission to the appellants to file a suit, so that a comprehensive scheme for the proper management of the Anjumane might be drawn up by a competent Civil Court which would have gone into the whole question in detail.

(3) The order of the Deputy Commissioner is illegal, and not according to the principles that should be applied in considering grant of permission under section 92, Civil Procedure Code.

(4) The Deputy Commissioner has failed to consider that it would be to the best interest of the Anjumane and the moslem community of Kiragaval, to have a scheme of management sanctioned

sanctioned by a Civil Court, for the benefit of all concerned.

(5) The Deputy Commissioner failed to properly appreciate the evidence adduced in the case.

(6) These appellants pray that the order of the Deputy Commissioner be set aside and permission granted to the appellants under Section 92 of the Civil Procedure Code, or the Deputy Commissioner of Mysore be directed to grant the necessary permission under Section 92, Civil Procedure Code.

5

In the Court of the Deputy Commissioner
Mysore District.

Present: C. S. Kuppuswamy Iyengar Esq.
Deputy Commissioner.

Dated this 25th day of May 1933.

Petitioners:		Counter Petitioners
(1) Yakub Sab		K. Ibrahim &
(2) Daud Sab		- Khan and 26
residing at Kiragaval,		others
Malavalli Taluk -		(Represented by
(represented by Mr.		Mr. P. Rangaswa-
M. Venkatakrishnaiya		-my Iyengar,
Advocate)		Advocate)

This is an application under Sec. 92 C. P. C. praying for permission to file a Civil Suit against the Counter Petitioners.

The Petitioners States that an association by name "Anjumane Mahamadia Darulathul Islam" has been Constituted at Kiragaval, Malavalli Taluk, for the improvement of the religious and musalmans and for the encouragement of charitable objects. The Musalmans and others have given Subscriptions and endowed Landed

properties to the Institution, a Managing Committee consisting of 25 members has been appointed to collect the realizations from the endowed properties and to spend the same reasonably.

(2) The Counter petitioners who have not been appointed according to the rules of the trust, have formed a Committee secretly, do not hold meetings regularly, do not furnish accounts of income and expenditure to the people, and they have been misusing the funds of the trust Contrary to the objects of the trust. There is neither reason nor justice for their action. The petitioners who are interested in the trust, though reminded the counter Petns in the matter, the latter have not yet replied the affairs. It is necessary to remove the existing members, get the connected papers and accounts, and carry the objects of the trust.

(3) The petitioners have therefore prayed for the grant of permission to file a civil suit in the District Judge's Court, Mysore, for framing a Scheme of settlement.

MYSORE DISTRICT

'10

Schedule of properties of the trust.

(1)	Vacant sites valued	Rs 50-0-0
(2)	one Cart	10-0-0
(3)	Cash	3000-0-0
(4)	Value of Minarat returned the Kabarastan	10-0-0
(5)	one clock	10-0-0
		3080-0-0

(4) The following exhibits were filed on behalf of the Petners:-

(A) Receipt dated 1-3-1923 executed by Ebrahim Khan (Present President) to Mahamad Khasim Sab (Previous President)

(B) Receipt dated 11-3-1923 executed by the Anjuman Secretary in favour of Mahamed Khasim Sab for the receipt of Rs 63-3-10.

(C) Letter dated 8-4-23 from the Secretary Meeran Sab calling for certain details of accounts of nine months.

(d) Requisition to the President Mohamed Khasim Sab to send Rs 63-10-9 through the Secretary.

(e) Reply dated 26-3-30 from the Treasurer Khasim Sab of the Anjuman to Waseul Sab and other Petners.-

MYSORE DISTRICT

(F) Reply dated 26-3-30 from the joint Secretary Malik Sab of the Anjuman to Dawood Sab and others Petrs. —

(F1) Postal Cover addressed to Dawood Sab of Kiragaval.

(G) Letter dated 3-12-24 from the Anjuman of Channapatna to the Anjuman of Kiragaval

(H) Receipt book of Ibrahim Sab for payment of weekly instalments of one rupee to the Anjuman.

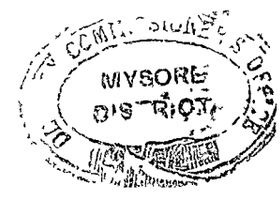
(I) Petition dated 5-3-23 of Sakkubai to the Anjuman of Kiragaval stating that he will abide by the decision of the Anjuman.

(J) Postal acknowledgment dated 21-3-30 addressed to K Ibrahim Khan President of the Anjuman.

(K1) & (K2) Receipts given by the Anjuman to Dawood Sab for payment of Rs 3/- and 1/- respectively —

(L) Petition dated 21-3-30 from the residents of Kiragaval to President Ibrahim Khan demanding certain particulars of the Association.

(M) Sale deed dated 15-1-1925 executed by Rahim Khan in favour of — Yesuff Sab —



JPL 14/8/V

(R1) is the signature of K Ibrahim Khan as witness in the above document. —

Exhibits filed by Counter Petitioners.

I (a) Notice of meeting of the Anjuman on 25-5-30 issued to K. Ibrahim Khan by the members.

I (b) Resolution passed at the General meeting of the Anjuman to remove such of the members who are not regularly paying subscriptions.

II Printed Copy of Interlocutory order of K Ibrahim Khan in the R. A Sessions of October 1932.

III, IV, V } Auditors remarks on the Cash book dated 5-3-29, 10-1-30 and 2-4-33.

— V —

Five witnesses for Petitioners and the 1st C/Petnr were examined. The Case was argued on 17-5-1933 by Mr. M. Venkata Krishnaiya for Petners and Mr. P. Rangaswamy Iyengar for the C/Petnr.

— V —

Order,

That there is an Anjuman at Kiragaval is admitted. The Petrs alleged that the 1st C Petr. has not been managing the property that he

FORM. SICKER 2 MYSORE RIOT

has not been managing the
submitting the same at meetings and that
the funds of the Anjuman are being mis-
used. The 1st C. Petr denies all these
allegations. There is not the slightest
doubt that there are two factions among
Muhammedans at Kiragaval, 1st C. Petr
has become the President of the Anjuman,
This is obnoxious to the opposite faction
and they have been trying to remove him
from the office. The evidence led in
by the Petns in support of their allegations
is not worth the paper on which it is written.
~~Exhibit~~. It is all interested evidence.
On the other hand 1st C. Petr has
produced the Proceedings Book and the
audit report of the Auditor. They show
that meetings are regularly held and
accounts are maintained and submitted.
In the face of this, I cannot possibly say
that 1st C. Petr is not managing the
affairs of the Anjuman properly and
that he has misused its funds.
This application is obviously the out-
come of party feelings among the
Muhammedans in the village. Under
the circumstances, I hold that the
Petns have made out no case for

COMMISSIONER
MYSORE
DIVISION

JPL 14/8/N

for sanction being accused under Sec 92 of the Civil Procedure Code. —
Their application is dismissed.

Sd: C.S. Kuppuswamy Iyengar,
Deputy Commr

Compared
Klu
29.5.33.

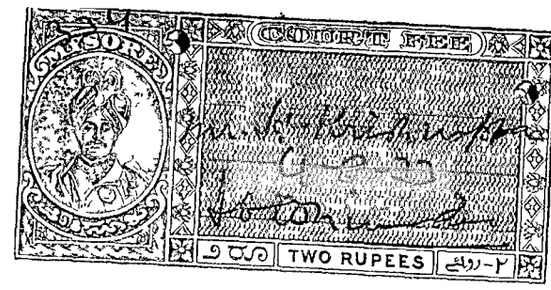
— u —
Copy.

Copy applied on 29-5-33
Copy ready on 29-5-33
Copy delivered on 29-5-33
No of words charged. 947
Copying fees -- 1-4-0
Coparing fees -- 0-5-0
Total 1-9-0

Authenticated on 15.6.1933

By-order,
Kluarasimha Iyengar
Mysore Record
Deputy-Commr's
office, Mysore

15.6.1933.



(15

ಮೈಸೂರು ಕಛೇರಿ ಕೋರ್ಟಿಗೆ.

193 – 193 ನೇ ಅಕಿ ನಂಬರು

ಅಕಿ
ವಾದಿ

ಅಕಿ
ಪ್ರತಿವಾದಿ

V.S.

ಮಾನ್ಯರಾ ಅಪ್ಪಣೆಯಾಗಬೇಕು. ಹೀಗಿಗೆ ನಿಮ್ಮ ಪಕ್ಷದಲ್ಲಿ ನಮಗೆ ಅಭಿಮಾನವಿರುತ್ತದೆ

ಅಕಿ ನಾನು ಒರಸಿಕೊಟ್ಟ ವಕಾಲತ್ನಾಮಾ

ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ತಾವು ನನ್ನ ಪರವಾಗಿ ಆಫೀರುವರಿಗೂ ಕೋರ್ಟಿನಲ್ಲಿ ವಿವಾದ ಜರುಗಿಸುವುದಕ್ಕೂ, ನನ್ನ ಪರ ಆಗುವ ಎಲ್ಲಾ ವಿಧವಾದ ಆರ್ಡರನ್ನೂ, ಡಿಕ್ರಿಯನ್ನೂ, ಜಾರಿಕ್ರಮ ನಡಿಸಿ ಹಣ ವಸೂಲು ಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕೂ, ನನಗೆ ಕೋರ್ಟಿನಿಂದ ಸಲ್ಲಬೇಕಾಗಿರುವ ಡಿಕ್ರಿಯೊಬಲಗು, ಸಿಲ್ಕು ಮೊಬಲಗು ಸಹ ಪಡಿಯಲಿಕ್ಕೂ, ದೆಸ್ತೈವಜು ನಗೈರೆಗಳನ್ನು ಮಾಪಸು ಪಡಿಯಲಿಕ್ಕೂ ಸಹ ತಮಗೆ ಈ ಮೂಲಕ ಸಂಪೂರ್ಣ ಅಧಿಕಾರ ಕೊಟ್ಟಿದೇನೆ ಅಲ್ಲದೆ ತಾವಾಗಲಿ ಯಾ ತಮ್ಮಗೋಸ್ಕರ ಮತ್ಯಾವ ಲಾಯರಾಗಲಿ ಡಿಟೋ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ನಡಿಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನು ನಾನು ಖುದ್ದು ಇದ್ದು ನಡಿಸಿದಂತೆ ಒಪ್ಪಿಕೊಳ್ಳಲು ಬದ್ಧನಾಗಿ ಇದ್ದೇನೆ

(ರುಜುದಾರನ ಹೆಸರು ಪೂರ್ತಿ ಬರೆಯಬೇಕು)

(ರುಜುಮಾಡುವವರು ಹೆಸರು ಬರೆಯಬೇಕು)

ತಾರೀಖು 14.6.33 ರುಜು

Bangalore City

ಈ ಮೊಖ್ತಾರುನಾಮ ಕೊಟ್ಟವರು ನನಗೆ ಪರಿಚಯ ಸ್ವರಾಗಿ ನನ್ನ ಸಮಕ್ಷಮ ರುಜು ಮಾಡಿರುತ್ತಾರೆ.

ಈ ಮೊಖ್ತಾರುನಾಮಾ ಅಂಗೀಕರಿಸಿ ಇದ್ದೇನೆ.

ಸೀತಾರಾಮಸ್ವೋರ್ಸ್ ಚಿಕ್ಕವೀಟಿ, ಬೆಂಗಳೂರು ಸಿಟಿ.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF M E,

General and Revenue Secretariat,

No. 42 Dated, Bangalore 19th August 1933.
2300
Mog S6-31-2

ENDORSEMENT.

To

Messrs. Yakub Sab & Davood Sab,
Hiregaval, Malavalli Taluk.

With reference to their petition dated 4-8-1933 filed by Mr. T. Krishnappa, Advocate, appealing against the decision of the Deputy Commissioner in Muzrai Miscellaneous application No.554 of 1932 refusing the permission to file a civil Suit against the respondents in respect of an Association by name Anjumane Mohamadevia Dayarath Islam, at the place, the petitioners are informed that no appeal lies to Government against the order of the Deputy Commissioner in this case.

By order,

Sd. A.N. Raghavachar.
Financial Secretary to Government.

TD4.

P.T.O.

17

Memo, No.

Dated, Bangalore the August 1933.

By order,

for Financial Secretary to Govt.

Appendix F G—1]

SUBJECT 18

.....

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Section Mun

File No. 56-33

Serial No. 2

Diary No. of letter replied to ..... No. 242

To

Messrs Yakub Sait & Davood Sa

Kiriyawal. Malavalli

General and Revenue Secretariat

( )

the *193* .

Date of issue 23-8-33

Signed by Mr B. Muddukrishnappa

Yr. Tr. regd to their petn dy 4/8/33 filed by Rev. K. Krishnappa Advocate ~~for~~ appealing against the decision of the D.C. in Mis. appln no 534 of 1932 refusing permission to file a Civil Suit against the respondents in respect of an Association called Anjuman Mahadevia Waqumath ul-Islam at the Place, ~~Malavalli~~ Yakub Sait & Davood Sait the petitioners, ~~Dist~~ Kiriyawal, Dist. K.

List of enclosures.....

Copied by C.V.S.T.

Examined by .....

There no appeal lies to your against
the order of the D.C. in this case —
~~this case is which they have to Case.~~

B.O

2/7/18

for Hrse

243 & 234-33

Copy to Mr M. Krishnaiah Advocate
Bangalore city.

B.O

2/7/18

244 & 22-2-33.

Copy to M.C. for information.

B.O

17/8

In file.

13/8/18